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EXAMINER

BLENMAN, AVALON

ART UNIT PAPER NUMBER

2153

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/028,219

Applicant(s)

SHANKAR, KRISHNAN V.

Examiner

Avalon Blenman

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 15-32, 40-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14, 33-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-50 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims **1-7 & 26-32**, drawn to a method and computing device for receiving shared digital media resources, classified in class 709, subclass 217.
  - II. Claims **8-14 & 33-39**, drawn to a method and sever for relaying shared digital media resources, classified in class 709, subclass 204.
  - III. Claims **19-25 & 44-50**, drawn to a method and computer system for receiving and concurrently displaying shared digital media resources during a communication session, classified in class 715, subclass 753.
  - IV. Claims **15-18 & 40-43**, drawn to a method and computer system for receiving shared images to be used as a screen saver, classified in class 715, subclass 867.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as:

  - transparently receiving from said server, a second one or more digital media resources previously identified by any of said community of users as one or more

digital media resources to be shared with a user associated with said computing device

Invention I as claimed, does not require relaying digital media resources to the second user nor a concurrent communication session. Invention II has a separate utility such as:

- relaying the one or more digital media resources to the first user if the one or more digital media resources were uploaded by the second user, and relaying the one or more digital media resources to the second user if the one or more digital media resources were uploaded by the first user, said one or more digital media resources to be displayed in association with at least one of a screen saver and a wallpaper on a corresponding computing device.

Invention II as claimed, does not require transparently receiving digital media resources nor a concurrent communication session. Invention III has a separate utility such as:

- concurrently facilitating a communication session with at least one of the one or more resource sharing partners while said at least one of the one or more digital media resources is displayed.

Invention III as claimed does not require transparently receiving digital media resources nor relaying digital media resources to a first user.

The subcombinations have separate utilities such as receiving, relaying, and concurrently communicating. Invention IV is distinct from I, II, and III. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Jim White on 03/21/05 a provisional election was made without traverse to prosecute the invention of invention II, claims 8-14 and 33-39. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-7, 15-32, and 40-50 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Priority***

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.  
The effective filing date for the pending claims in this application is August 21<sup>st</sup>, 2001.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on October 24<sup>th</sup> 2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Specification***

The disclosure is objected to because of the following informalities; appropriate correction is required.

It is suggested applicant remove the second set of words "there was" from the sentence (page 3, line 15).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed and described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **8-14 & 33-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rust (US Patent 6,668, 273), hereafter referred to as Rust, in view of Teng et al. (US Patent 5,930,473), hereafter referred to as Teng, and further in view of Rakavy et al. (US Patent 5,913,040), hereafter referred to as Rakavy.

In referencing to claims **8 & 33**, Rust discloses a server with a method of operation (fig. 5) comprising; and a machine accessible medium having stored thereon a plurality of instructions (col. 5, lines 26-34), which when executed, cause the computing device to:

- receiving/receive information from a first user (presenter) identifying a second user (attendee client) as a resource sharing partner (col. 7, lines 32-36);
- receiving/receive information (identification code) from the second user (attendee) identifying the first user (presenter) as a resource sharing partner (col. 7, lines 11-14);
- receiving/receive one and more digital media resources uploaded by at least one of said first (presenter) and second users; (fig. 4, step 400)

Although Rust teaches all of these features, Rust does not explicitly disclose relaying one ore more digital media resources uploaded by a second user to a first user.

Nonetheless, this feature would have been an obvious modification to the system disclosed by Rust as evidenced by Teng.

In analogous art, Teng discloses a server with computing device where a server (fig. 1, #12, video server) receives and relays one of more digital media resources (video) uploaded by one of a first and second user (fig. 1, #14-i) (col. 6, lines 7-10).

Teng further discloses:

- relaying/relay ("playback") the one and more digital media resources (video) to the first user (fig. 1, # 14-i) if the one and more digital media resources were uploaded by the second user (fig. 1, # 14-i) (col. 6, lines 22-27, lines 15-17)

Although Teng teaches this feature, Teng does not explicitly disclose a digital media resource to be displayed in association a screen saver and a wallpaper.

Nonetheless, this feature would have been an obvious modification to the system disclosed by Teng as evidenced by Rakavy.

In analogous art, Rakavy discloses a first one and more digital media resources (advertisements) to be shared with one and more users of one and more corresponding remote computing devices (fig. 1, #500, local computer); receiving a indication (implied, fig 9. step 251) identifying said one and more users from among a community of users to receive one and more digital media resources; establishing a first data connection between said computing device and a server (fig. 1, communication from advertiser); and transparently receiving (fig. 9. step 253) from said server (fig. 1, #600, network



server) one and more digital media resources previously identified by any of said community of users as one and more digital media resources to be shared with a user associated with said computing device (col. 5, lines 32-36). Rakavy further discloses:

- displaying said second one and more digital media resources in association with at least one of a screen saver and a wallpaper (col. 10, lines 52-54, 57-62)

Given these features, at the time of the invention, a person of ordinary skill in the art would have readily recognized the advantages and desirability of combining the method of Rust with those of Teng and Rakavy where the display of the digital media resources would be in association with a screen saver and a wallpaper.

The motivation for doing so would be to allow bidirectional commutation where the second user could receive digital media resources from the server as well as upload digital media resources (for the first user) to the server (see Teng, col. 4, lines 54-59). Furthermore, the user of the remote computing device could customize their desktop with the digital media of their specific interest (see Rakavy col. 8, lines 9-13).

Rust further discloses:

- relaying (fig. 5, step 520) the one and more digital media resources to the second user (attendee) if the one and more digital media resources were uploaded by the first user (presenter, fig. 4, step 400)

Although Rust teaches this feature, Rust does not explicitly disclose a digital media resource to be displayed in association with a screen saver and a wallpaper. Nonetheless, this feature would have been an obvious modification to the system disclosed by Rust as evidenced in analogous art by Rakavy (col. 10, lines 52-54, 57-62).

Given this feature, at the time of the invention, a person of ordinary skill in the art would have readily recognized the advantages and desirability of combining the method Rust with that of where the digital media resources would be in association with a screen saver and a wallpaper.

The motivation as set forth above in reference to claim 8, would be so that the user of the remote computing device could customize their desktop.

In referencing to claim **9 & 34**, Rust further discloses:

- said one and more digital media resources comprise one and more digital images (col. 6, lines 25-28)

In referencing to claims **10 & 35**, Rust does not explicitly disclose digital resources comprising one and more frames of a digital video sequence. Nonetheless,

Art Unit: 2153

this feature would have been an obvious modification to the system disclosed by Rust as evidenced by Rakavy. In analogous art, Rakavy discloses:

- said one and more digital media resources (advertisements) comprise one and more frames of digital video sequence (col. 3, lines 39-41, col. 8, lines 63-66)

Given this feature, at the time of the invention, a person of ordinary skill in the art would have readily recognized the advantages and desirability of combining the method of Rust with that of Rakavy where the digital media resources would comprise one or more frames of a digital video sequence.

The motivation for doing so would be so that the shared digital media resources are not restricted to only textual format (see Rust, col. 1, lines 21-29).

In referencing to claims **11 & 36**, Rust further discloses:

- temporarily storing (Temp.Data file) said one and more digital media resources in association with said first and second user (fig. 4, step 430);
- receiving a data connection request (implied) from at least one of said first and second users (fig. 5, step 510);

- authenticating the identity of said first (presenter) and second user based on said data connection request (col. 6, lines 61-66); and
- downloading the one and more digital media resources associated with the authenticated user to a computing device corresponding to the authenticated user (fig. 5, step 520)

Given this feature, at the time of the invention, a person of ordinary skill in the art would have readily recognized the advantages and desirability of combining the method of Rust with that of Rakavy where Rust's digital media resources would be associated with a meta-data file (Ravkay's advertisement information record).

The motivation for doing so would be to provide a means of identifying resources necessary to present the digital media on the second user system (see Rakavy col.7, lines 21-24)

In referencing to claims **12 & 37**, Rust does not explicitly disclose a meta-data file stored in association with the digital media resource. Nonetheless, this feature would have been an obvious modification to the system disclosed by Rust as evidenced by Rakavy. In analogous art, Rakavy discloses:

- generating at least one meta-data file (advertisement information record) to describe at least a subset of said one and more digital media resources (col. 7, lines 16-21); and
- storing said at least one meta-data file in association with said one and more digital media resources described (fig. 5, #50 & #51, col. 7, lines 12-16)

In referencing to claims **13 & 38**, Rust further discloses:

- said one and more digital media resources are stored on said server (control server) in a compressed form (gif format, col. 10, lines 38-43)

In referencing to claims **14 & 39**, Rust implicitly discloses:

- receiving a request (col. 7, lines 32-36) from one of said first and second users (presenter) requesting that a copy of a digital media resource (visual data) be shared with a third user (2<sup>nd</sup> attendee to join session, col. 6, lines 8-12, col. 7, lines 9-10), said digital media resource having been previously uploaded to said server by said requesting one of said first and second users (presenter), shared with the other of said first and second users, (1<sup>st</sup> attendee) (implied in an

existing session) and thereafter removed from both said server  
(implied, by Temp.Data file) and said computing device as associated  
with said requesting one of said first and second users (presenter)  
(change display screen, col. 8, lines 48-54);

Although Rust implicitly teaches this feature, Rust does not explicitly disclose identifying one user to have received a copy of said digital media source. Nonetheless, this feature would have been an obvious modification to the system disclosed by Rust as evidenced by Teng. In analogous art, Teng discloses .

- identifying at least one of each user (fig. 1, #14-4) to have received a digital media resource (stored video) (col. 6, lines 22-27); and
- requesting said previous copy of said digital media resource from said identified user for forwarding to said third user (col. 6, lines 22-27)

Given this feature, at the time of the invention, a person of ordinary skill in the art would have readily recognized the advantages and desirability of combining the method of Rust with that of Teng where the server could request a copy of the digital media directly from the 2<sup>nd</sup> user for forwarding to the 3<sup>rd</sup> user.

The motivation for doing so would be so that the server could provide the 3<sup>rd</sup> user with the stored digital media resource on demand and upon joining the session (see Teng, col. 6, lines 7-10).


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avalon Blenman whose telephone number is (571) 272-5864. The examiner can normally be reached on Mon-Fri, 7:00 AM - 4:30 PM (even date Mons. off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB

  
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